



General Assembly

February Session, 2010

Raised Bill No. 473

LCO No. 2181

02181_____GAE

Referred to Committee on Government Administration and Elections

Introduced by:
(GAE)

AN ACT CONCERNING STATE CONTRACTING.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective from passage*) For any contract entered
2 into between a state agency and a private service provider after July 1,
3 2010, when the state agency reduces the funding amount under the
4 contract by three per cent or more during any fiscal year, the private
5 service provider may adjust its budget expenditures in an amount
6 equal to the funding reduction without the agency's approval.

7 Sec. 2. Section 4e-1 of the general statutes is repealed and the
8 following is substituted in lieu thereof (*Effective October 1, 2010*):

9 For the purposes of sections 4e-1 to 4e-47, inclusive, and section 3 of
10 this act:

11 (1) "Best value selection" means a contract selection process in which
12 the award of a contract is based on a combination of quality, timeliness
13 and cost factors;

14 (2) "Bid" means an offer, submitted in response to an invitation to

15 bid, to furnish supplies, materials, equipment, construction or
16 contractual services to a state contracting agency under prescribed
17 conditions at a stated price;

18 (3) "Bidder" means a business submitting a bid in response to an
19 invitation to bid by a state contracting agency;

20 (4) "Business" means any individual or sole proprietorship,
21 partnership, firm, corporation, trust, limited liability company, limited
22 liability partnership, joint stock company, joint venture, association or
23 other legal entity through which business for profit or not-for-profit is
24 conducted;

25 (5) "Competitive bidding" means the submission of prices by a
26 business competing for a contract to provide supplies, materials,
27 equipment or contractual services to a state contracting agency, under
28 a procedure in which the contracting authority does not negotiate
29 prices, as set forth in statutes and regulations concerning procurement;

30 (6) "Consultant" means (A) any architect, professional engineer,
31 landscape architect, land surveyor, accountant, interior designer,
32 environmental professional or construction administrator, who is
33 registered or licensed to practice such person's profession in
34 accordance with the applicable provisions of the general statutes, (B)
35 any planner or any environmental, management or financial specialist,
36 or (C) any person who performs professional work in areas including,
37 but not limited to, educational services, medical services, information
38 technology and real estate appraisal;

39 (7) "Consultant services" means those professional services rendered
40 by a consultant and any incidental services that a consultant and those
41 in the consultant's employ are authorized to perform;

42 (8) "Contract" or "state contract" means an agreement or a
43 combination or series of agreements between a state contracting
44 agency or quasi-public agency and a business for:

45 (A) A project for the construction, reconstruction, alteration,
46 remodeling, repair or demolition of any public building, public work,
47 mass transit, rail station, parking garage, rail track or airport;

48 (B) Services, including, but not limited to, consultant and
49 professional services;

50 (C) The acquisition or disposition of personal property;

51 (D) The provision of goods and services, including, but not limited
52 to, the use of purchase of services contracts and personal service
53 agreements;

54 (E) The provision of information technology, state agency
55 information system or telecommunication system facilities, equipment
56 or services;

57 (F) A lease; or

58 (G) A licensing agreement;

59 "Contract" or "state contract" does not include a contract between a
60 state agency or a quasi-public agency and a political subdivision of the
61 state;

62 (9) "Term contract" means the agreement reached when the state
63 accepts a bid or proposal to furnish supplies, materials, equipment or
64 contractual services at a stated price for a specific period of time in
65 response to an invitation to bid;

66 (10) "Contract risk assessment" means (A) the identification and
67 evaluation of loss exposures and risks, including, but not limited to,
68 business and legal risks associated with the contracting process and
69 the contracted goods and services, and (B) the identification,
70 evaluation and implementation of measures available to minimize
71 potential loss exposures and risks;

72 (11) "Contractor" means any business that is awarded, or is a

73 subcontractor under, a contract or an amendment to a contract with a
74 state contracting agency under statutes and regulations concerning
75 procurement, including, but not limited to, a small contractor, minority
76 business enterprise, an individual with a disability, as defined in
77 section 4a-60, or an organization providing products and services by
78 persons with disabilities;

79 (12) "Contractual services" means the furnishing of labor by a
80 contractor, not involving the delivery of a specific end product other
81 than reports, which are merely incidental to the required performance
82 and includes any and all laundry and cleaning service, pest control
83 service, janitorial service, security service, the rental and repair, or
84 maintenance, of equipment, machinery and other state-owned
85 personal property, advertising and photostating, mimeographing,
86 human services and other service arrangements where the services are
87 provided by persons other than state employees. "Contractual services"
88 includes the design, development and implementation of technology,
89 communications or telecommunications systems or the infrastructure
90 pertaining thereto, including hardware and software and services for
91 which a contractor is conferred a benefit by the state, whether or not
92 compensated by the state. "Contractual services" does not include
93 employment agreements or collective bargaining agreements;

94 (13) "Data" means recorded information, regardless of form or
95 characteristic;

96 (14) "Vote of two-thirds of the members of the board present and
97 voting" means a vote by the State Contracting Standards Board that is
98 agreed upon by two-thirds of the members of the State Contracting
99 Standards Board present and voting for a particular purpose and that
100 includes the vote of one member of the board appointed by a
101 legislative leader;

102 (15) "Electronic" means electrical, digital, magnetic, optical,
103 electromagnetic, or any other similar technology;

104 (16) "Emergency procurement" means procurement by a state
105 contracting agency, quasi-public agency, as defined in section 1-120,
106 judicial department or constituent unit of higher education that is
107 made necessary by a sudden, unexpected occurrence that poses a clear
108 and imminent danger to public safety or requires immediate action to
109 prevent or mitigate the loss or impairment of life, health, property or
110 essential public services or in response to a court order, settlement
111 agreement or other similar legal judgment;

112 (17) "Equipment" means personal property of a durable nature that
113 retains its identity throughout its useful life;

114 (18) "Materials" means items required to perform a function or used
115 in a manufacturing process, particularly those incorporated into an
116 end product or consumed in its manufacture;

117 (19) "Nonprofit agency" means any organization that is not a for-
118 profit business under 501(c)(3) of the Internal Revenue Code of 1986, or
119 any subsequent corresponding internal revenue code of the United
120 States, as from time to time amended, makes no distribution to its
121 members, directors or officers and provides services contracted for by
122 (A) the state, or (B) a nonstate entity;

123 (20) "Professional services" means any type of service to the public
124 that requires that members of a profession rendering such service
125 obtain a license or other legal authorization as a condition precedent to
126 the rendition thereof, including, but not limited to, the professional
127 services of architects, professional engineers, or jointly by architects
128 and professional engineers, landscape architects, certified public
129 accountants and public accountants, land surveyors, attorneys-at-law,
130 psychologists, licensed marital and family therapists, licensed
131 professional counselors and licensed clinical social workers as well as
132 such other professional services described in section 33-182a;

133 (21) "Privatization contract" means an agreement or series of
134 agreements between a state contracting agency and a person or entity

135 in which such person or entity agrees to provide services that are
136 substantially similar to and in lieu of services provided, in whole or in
137 part, by state employees, other than contracts with a nonprofit agency,
138 which are in effect as of January 1, 2009, and which through a renewal,
139 modification, extension or rebidding of contracts continue to be
140 provided by a nonprofit agency;

141 (22) "Procurement" means contracting for, buying, purchasing,
142 renting, leasing or otherwise acquiring or disposing of, any supplies,
143 services, including but not limited to, contracts for purchase of services
144 and personal service agreements, interest in real property, or
145 construction, and includes all government functions that relate to such
146 activities, including best value selection and qualification based
147 selection;

148 (23) "Proposer" means a business submitting a proposal to a state
149 contracting agency in response to a request for proposals or other
150 competitive sealed proposal;

151 (24) "Public record" means a public record, as defined in section 1-
152 200;

153 (25) "Qualification based selection" means a contract selection
154 process in which the award of a contract is primarily based on an
155 assessment of contractor qualifications and on the negotiation of a fair
156 and reasonable price;

157 (26) "Regulation" means regulation, as defined in section 4-166;

158 (27) "Request for proposals" means all documents, whether attached
159 or incorporated by reference, utilized for soliciting proposals;

160 (28) "State contracting agency" means any executive branch agency,
161 board, commission, department, office, institution or council. "State
162 contracting agency" does not include the judicial branch, the legislative
163 branch, the offices of the Secretary of the State, the State Comptroller,
164 the Attorney General, the State Treasurer, with respect to their

165 constitutional functions, any state agency with respect to contracts
166 specific to the constitutional and statutory functions of the office of the
167 State Treasurer. For the purposes of section 4e-16 and section 3 of this
168 act, state contracting agency includes any constituent unit of the state
169 system of higher education;

170 (29) "Subcontractor" means a subcontractor of a contractor for work
171 under a contract or an amendment to a contract;

172 (30) "Supplies" means any and all articles of personal property,
173 including, but not limited to, equipment, materials, printing, insurance
174 and leases of real property, excluding land or a permanent interest in
175 land furnished to or used by any state agency;

176 (31) "Infrastructure facility" means a building, structure or network
177 of buildings, structures, pipes, controls and equipment that provide
178 transportation, utilities, public education or public safety services.
179 Infrastructure facility includes government office buildings, public
180 schools, jails, water treatment plants, distribution systems and
181 pumping stations, wastewater treatment plants, collections systems
182 and pumping stations, solid waste disposal plants, incinerators,
183 landfills, and related facilities, public roads and streets, highways,
184 public parking facilities, public transportation systems, terminals and
185 rolling stock, rail, air and water port structures, terminals and
186 equipment; and

187 (32) "State employee" means state employee, as defined in section 5-
188 154 and, for purposes of section 4e-16, state employee includes an
189 employee of any state contracting agency.

190 Sec. 3. (NEW) (*Effective October 1, 2010*) (a) Any state contract (1)
191 with a duration of ten years or more, or (2) containing a provision that
192 permits the extension of such contract for a duration of ten years or
193 more, shall be filed by the state contracting agency with the clerks of
194 the House of Representatives and the Senate not later than ten days
195 after the date on which such contract is entered into. Any such contract

196 shall have no effect unless approved by the General Assembly in
197 accordance with subsection (b) of this section.

198 (b) Not later than thirty days after such filing, the General Assembly
199 may approve any such contract as a whole by a majority vote of each
200 house or may reject such contract as a whole by a majority vote of
201 either house. The contract shall be deemed approved if the General
202 Assembly fails to vote to approve or reject such contract not later than
203 thirty days after such filing. If rejected, the contract shall be returned to
204 the contracting state agency for further negotiation.

205 Sec. 4. Subsection (b) of section 4a-82 of the general statutes is
206 repealed and the following is substituted in lieu thereof (*Effective from*
207 *passage*):

208 (b) The Commissioner of Administrative Services shall establish a
209 pilot program, for a term of [four] seven years, to create and expand
210 janitorial work job opportunities for persons with a disability and
211 persons with a disadvantage. Such pilot program shall consist of four
212 identified projects for janitorial work. The program shall create a
213 minimum of sixty full-time jobs or sixty full-time equivalents at
214 standard wages for persons with disabilities and persons with
215 disadvantages and have a total market value for all janitorial contracts
216 awarded under the program of at least three million dollars. In
217 establishing such pilot program, the Commissioner of Administrative
218 Services may consult with the Commissioner of Social Services and the
219 Labor Commissioner.

220 Sec. 5. Subsection (i) of section 4a-100 of the 2010 supplement to the
221 general statutes is repealed and the following is substituted in lieu
222 thereof (*Effective October 1, 2010*):

223 (i) The commissioner may [not issue or renew] deny a
224 prequalification certificate to any contractor or substantial
225 subcontractor (1) who is disqualified pursuant to section 31-57c or 31-
226 57d, [or] (2) who has a principal or key personnel who, within the past

227 five years, has a conviction or has entered a plea of guilty or nolo
228 contendere for or has admitted to commission of an act or omission
229 that reasonably could have resulted in disqualification pursuant to any
230 provision of subdivisions (1) to (3), inclusive, of subsection (d) of
231 section 31-57c or subdivisions (1) to (3), inclusive, of subsection (d) of
232 section 31-57d, as determined by the commissioner, or (3) who, within
233 the past three years, has received four or more unsatisfactory written
234 evaluations.

235 Sec. 6. Subsection (o) of section 4a-100 of the 2010 supplement to the
236 general statutes is repealed and the following is substituted in lieu
237 thereof (*Effective October 1, 2010*):

238 (o) Any contractor or substantial subcontractor aggrieved by the
239 commissioner's final determination concerning a preliminary
240 determination, a denial of certification, a reduction in prequalification
241 classification or aggregate work capacity rating or a revocation [or
242 nonrenewal] of certification may appeal to the Superior Court in
243 accordance with section 4-183.

244 Sec. 7. Subsection (e) of section 4a-101 of the 2010 supplement to the
245 general statutes is repealed and the following is substituted in lieu
246 thereof (*Effective October 1, 2010*):

247 (e) No person, public agency, employee of a public agency or
248 certifying official of a public agency shall be held liable to any
249 contractor, substantial subcontractor or subcontractor for any loss or
250 injury sustained by such contractor, substantial contractor or
251 subcontractor as the result of the completion of an evaluation form, as
252 required by this section or by section 4a-100, as amended by this act,
253 unless such person, agency, employee or official is found by a court of
254 competent jurisdiction to have acted in a wilful, wanton or reckless
255 manner.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>October 1, 2010</i>	4e-1
Sec. 3	<i>October 1, 2010</i>	New section
Sec. 4	<i>from passage</i>	4a-82(b)
Sec. 5	<i>October 1, 2010</i>	4a-100(i)
Sec. 6	<i>October 1, 2010</i>	4a-100(o)
Sec. 7	<i>October 1, 2010</i>	4a-101(e)

Statement of Purpose:

To allow private service providers to adjust their budget expenditures without approval when a state agency reduces the providers' funding, to require the filing of state contracts with a potential duration of ten years or more with the General Assembly for approval, to extend the term of a pilot program for janitorial work for disadvantaged or disabled persons from four years to seven years and to establish additional criteria for the denial of prequalification certificates by the Commissioner of Administrative Services.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]